Circuit Court for Frederick County
Case No. 10-K-16-059271

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2091

September Term, 2017

ABE ARJUN MALLIK

v.

STATE OF MARYLAND

Wright,
Leahy,
Sharer, J., Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Sharer, J.

Filed: June 7, 2019

Abe Arjun Mallik was convicted of 11 counts of possession of child pornography following a jury trial in the Circuit Court for Frederick County.[1] He raises five questions for our review, which we have edited for clarity and brevity:

1. Did the circuit court abuse its discretion when it denied the Mallik's motion to exclude the State's rebuttal expert in violation of Md. Rule 4-263?

2. Did the circuit court violate Md. Rule 5-403 when it permitted the State, over objection, to admit numerous images that were not charged in the criminal information?

3. Did the circuit court abuse its discretion when it refused to ask prospective jurors in *voir dire* whether they had "strong feelings against pornography in general"?

4. Did the circuit court err when it denied Mallik's motion for a mistrial based on an unrelated judge's communication to the jury pool about a defendant of a felony trial scheduled for that day?

5. Did the circuit court err when it permitted the State to amend the charging document on the first day of trial?

Mallik does not challenge the sufficiency of the evidence to sustain the convictions. Therefore, we shall limit our recitation of the factual background. *See Washington v. State*, 190 Md. App. 168, 171 (2010). We shall, however, as needed, provide factual details to support our discussion.

For the reasons discussed below, we find neither error nor abuse of discretion and affirm the convictions.

BACKGROUND

[1] Mallik was sentenced to two consecutive five-year terms of imprisonment, which were suspended to time served.

Acting on a "cyber tip" from the National Center for Missing and Exploited Children, Deputy Jason Snyder of the Frederick County Sheriff's Office initiated an investigation. He began by viewing each of the images, attached to the tip, which he described in his testimony as either partially or fully nude "prepubescent female[s]" engaged in sexual conduct with an adult male. In his investigation, Snyder obtained records from email and internet service providers that led him to an IP address assigned to Mallik's Comcast home internet account. Based on information obtained by Snyder from various IP providers and email accounts, a search warrant was obtained and executed on Mallik's residence in Point of Rocks, Frederick County. Evidence seized in the execution of the search warrant, together with evidence developed by the Sheriff's Office investigators and a computer forensic analyst, resulted in Mallik being charged with eleven counts of possession of child pornography.

DISCUSSION

1. Belated Designation of Expert Witness

Six days before trial, the State filed a designation of its rebuttal expert, Special Agent Michael Dickson of the United States Secret Service, a "Cyber Security and Intrusion Expert." On the first day of trial, Mallik moved *in limine* to exclude Dickson, claiming "unfair surprise" based on the State's belated designation and failure to provide him with a comprehensive report of the expert's opinions and conclusions. The court denied the motion.

The State responds that the issue has not been preserved for our review. The Record reveals that, after having moved *in limine* to exclude the witness, Mallik failed to request

a continuing objection or to reassert his objection to the admission of the rebuttal expert's testimony when Dickson was called at trial.

> [THE STATE]: At this time, Your Honor, the State would like to move, move [sic] Mr. Dickson as a qualified expert in the field of electronic intrusion examination.
>
> [DEFENSE]: No objection.
>
> THE COURT: I will accept the witness as an expert as tendered.

Mallik did not challenge the State's calling of the witness, the State's *voir dire* of the witness, or the State's proffer and the court's acceptance of the witness as an expert. Nor did Mallik engage in his own *voir dire* to challenge Dickson's credentials or qualifications.

Pursuant to Maryland Rules, we have held that:

> Under Maryland Rule 4–323(a), "[a]n objection to the admission of evidence shall be made at the time the evidence is offered or as soon thereafter as the grounds for objection become apparent. Otherwise, the objection is waived." This requirement means that "when a motion *in limine* to exclude evidence is denied, the issue of the admissibility of the evidence that was the subject of the motion is not preserved for appellate review unless a contemporaneous objection is made at the time the evidence is later introduced at trial." *Klauenberg v. State*, [355 Md. 528, 539] (1999).

Morton v. State, 200 Md. App. 529, 540–41 (2011) (citations omitted).

In his reply brief, Mallik attempts to justify this Court's review of an unpreserved issue, a point which he concedes,[2] by relying on our opinion in *Dyce v. State*, 85 Md. App. 193 (1990), and further in urging a plain error review.

[2] In his reply brief, Mallik concedes that "[a]lthough [his] trial counsel did not renew her objection to the rebuttal expert when he took the stand, Maryland appellate courts have

In *Dyce*, we opted to exercise our discretion and consider an issue that had not been preserved because the defendant failed to renew his objection to the State's introduction of evidence of a prior conviction that had been brought up after the defendant decided to testify in his defense. 85 Md. App. at 195-96. Our willingness to overlook Dyce's lack of preservation was based on "the temporal proximity between the ruling on the motion *in limine* and the prosecutor's initial inquiry on cross-examination …." *Id*. at 198. Here, in contrast, the trial court's ruling on Mallik's motion *in limine* was made pre-trial, and the introduction of the evidence sought to be excluded was offered two days later, at the conclusion of the defense case. *Dyce* is readily distinguishable and is of no avail to Mallik. *See eg. Dyce*, 85 Md. App. at 196-98 (collecting cases).

Similarly, Mallik's plain error argument is without merit. As Mallik acknowledges in his reply brief, the instances where appellate courts should consider unpreserved errors are limited to "those which are 'compelling, extraordinary, exceptional or fundamental ….'" *Richmond v. State*, 330 Md. 223, 236 (1993) (quoting *State v. Hutchinson*, 287 Md. 198, 203 (1980)), abrogated for other reasons by *Christian v. State*, 405 Md. 306 (2008). *See also Herring v. State*, 198 Md. App. 60, 83 (2011) (quoting *Smith v. State*, 64 Md. App. 625, 632 (1985)). Mallik's failure to renew an objection to the introduction of the testimony by the State's rebuttal expert does not fall within any of the limited exceptions.

2. Admissibility of Photographs

considered an issue on appeal even when there has not been literal compliance with Md. Rule 4-323(a)."

The State offered, and the court admitted, several photographs – Exhibits 10, 20 and 21 – that depicted images that were not a basis of the charges. Mallik asserts that the court erred in admitting those uncharged images, arguing that the admission of each violated Md. Rule 5-403, as being more prejudicial than probative.

In his brief, Mallik describes the images in Exhibit 10 as, "non-pornographic -- non-child pornography images," in Exhibit 20, as additional images that "don't meet the actual definition [sic] child pornography," and in Exhibit 21, as "numerous uncharged images." (Internal quotations and citations omitted). He contends that all of these "images had little, if any, probative [value] yet – given the subject matter - [sic] were unfairly prejudicial to [him]." In support, Mallik refers us to *Banks v. State*, 84 Md. App. 582 (1990).

In *Banks*, the State offered two photographs of Banks, depicting him holding a handgun. 84 Md. App. at 584-85 n.2. The photo had been used by the undercover police officer to confirm the identity of the person from whom he had purchased drugs. *Id*. at 584-85, 589. In our analysis and balancing of the probative value against the risk of prejudice to the defendant, we addressed that drugs and guns go hand-in-hand, so the risk of prejudice to the defendant in admitting the photos would be extremely high. *Id.* at 591-92. That fact, coupled with the "State's concession that [the photos] have but minimal relevance, it follow[ed] that their probative value [was] also low." *Id*. at 592. On balance, this Court concluded that the circuit court erred in admitting the photographs because "their prejudicial effect far outweighed their relevance, hence, their probative value." *Id*.

In the present appeal, the State maintains that the probative value of the Exhibit 10, 20, and 21 photographs was significant because they demonstrated Mallik's "knowing

possession of the illegal images because they established a pattern of prurient interest in children and negated the defense that he was hacked."[3] Further, the State contends that "the images were not unfairly prejudicial or 'inflammatory' because they were not nearly as disturbing as the images for which Mallik was charged."

We review a trial court's rulings on the admissibility of evidence for abuse of discretion. *Newman v. State*, 236 Md. App. 533, 556 (2018) (quoting *Kelly v. State*, 162 Md. App. 122, 143 (2005)).

> Although the trial judge possesses broad discretion regarding the admission of photographs, this discretion does not authorize the judge to admit *irrelevant* photographs…. Therefore, in determining the admissibility of any photograph, the trial judge must make a two-part assessment: first, the judge must decide whether the photograph is relevant, and second, the judge must balance its probative value against its prejudicial effect. We will treat the trial judge's findings on these matters with great deference.

State v. Broberg, 342 Md. 544, 555 (1996) (internal citations omitted). *See also Thompson v. State*, 181 Md. App. 74, 95 (2008) (quoting *Broberg*, 342 Md. at 555), *aff'd*, 412 Md. 497 (2010).

"[A]ll relevant evidence is admissible." Md. Rule 5-402. What constitutes relevant evidence has been defined by Rule 5-401 as "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." However, Rule 5-403 affords certain limitations to the admissibility of relevant evidence, providing that

[3] Black's Law Dictionary defines the verb "hack" as, "[t]o surreptitiously break into the computer, network, servers, or database of another person or organization." *Black's Law Dictionary*, "hack," at 827 (10th ed. 2014).

"[a]lthough relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, … or needless presentation of cumulative evidence."

This Court recently undertook an extensive analysis of the admissibility of photographs in *Newman v. State*, *supra*. There, the State admitted a photograph of Newman that had been obtained from Facebook and provided to the police by his roommate so that he could be identified to support his arrest after having confessed to the roommate of committing murder. 236 Md. App. at 543. Newman challenged the admission of the "intimidating" photograph of him as overly prejudicial. *Id*. at 552 (quoting Newman's brief).

In our discussion of prejudice, we emphasized that "the noun 'prejudice' must never be allowed to travel immodestly abroad without its adjectival cloak of 'unfair.'" *Id*. at 555. Further explaining that in order "[t]o justify excluding relevant evidence, the 'danger of unfair prejudice' must not simply outweigh 'probative value' but must, as expressly directed by Rule 5-403, do so 'substantially.'" *Id*. (footnote omitted).

Counsel in the instant matter engaged in extensive discussions concerning the photographic evidence being offered by the State, both pre-trial and during trial. Because of the complexity of the case and the sensitive nature of the subject matter, the court held *sub curia* the admissibility of much of the photographic evidence.

Detective Snyder testified that the contents of Exhibit 10 were directly related to Exhibit 9, which had been objected to but is not challenged on appeal. Snyder testified that:

[SNYDER]: So I noted there were approximately 23 e-mails in various forms, eight of which were sent. Those eight included attachments. The, the subject line to those e-mails included things such as Hide, Hide-1 Attachments. Also contained within the attachments were images of child pornography related to our cyber tip and also images of non-child pornography.

* * *

[THE STATE]: I'm showing you State's Exhibit 9. Do you recognize those images?

[SNYDER]: I do.

[THE STATE]: And what are those?

[SNYDER]: These were the images that were sent from man.maryland to callmetim -- callme_tim@yahoo.com. These were the images -- some of these images were contained in the cyber tip, and these images were found in that, in the man.maryland e-mail address.

In reference to State's Exhibit 10, Snyder also testified:

[THE STATE]: Detective Snyder, you stated that in the same set of e-mails there were also non-pornographic -- non-child pornography images, is that correct?

[SNYDER]: Yes.

[THE STATE]: And did you review those images?

[SNYDER]: I did.

* * *

[THE STATE]: Can you tell the jury what that is?

[SNYDER]: These are images that were also contained, the attachments of the man.maryland e-mail address, and sent to callme_tim@yahoo.com.

As to State's Exhibit 20, Steven Gibson, a Computer Forensic Analyst (CFA) of the Department of Homeland Security Investigations, testified as to what he found on the laptop:

> Well, I have two different folders. Typically, I'll have suspected CP (child pornography), which is that which children engage in actual sexual acts, prepubescent children usually, and then the images of interest are ones that a lot of times will lead us to show the mindset of the individual, that it's not just a rare occurrence, that this individual has gone down a path of darkness per se that -- because by looking at the whole of it, it's not a mistake. So that's why I call them images of interest, because they don't meet the actual definition of child pornography[.]

It is apparent that context of the images contained in Exhibit 20, served to demonstrate the absence of mistake in support of "knowing" possession of the related child pornography images.

With respect to Exhibit 21, the State provided the following relevant testimony:

> [THE STATE]: And you stated, you just -- you just testified as to these series and images of clothed children. Did you compile a folder of interest regarding those images?
>
> [GIBSON]: Yes.
>
> * * *
>
> [THE STATE]: I'm showing you State's Exhibit 21, and this has been redacted. Is that a sampling of the other images that you were talking about?
>
> [GIBSON]: Yes, it is.

Exhibit 21 related to the contents of Exhibit 20 and had already been redacted by the State as a result of prior discussions. Gibson further testified as to the location of the images from Exhibits 20 and 21, found on Mallik's laptop under certain download folders

within the laptop's user account for "Deputy Dog," which is also where Gibson found suspected child pornography.

As we have consistently held, in order "[t]o be admissible, photographs must be relevant, and introduced for a legitimate purpose." *Roebuck v. State*, 148 Md. App. 563, 597 (2002) (internal quotations and citations omitted). Both Snyder and Gibson explained their reliance on the images contained in State's Exhibits 10, 20, and 21 to demonstrate ownership of the email accounts and the absence of mistake in possessing the illicit photographs. The prejudice associated with the sensitive nature of the photographs was substantially outweighed by the probative value the evidence provided, both in support for the elements of knowledge and possession, but also to show the absence of mistake and rebut Mallik's asserted defense. Finally, we recall our discussion in *Oesby v. State*, 142 Md. App. 144, 167-68 (2002):

> This final balancing between probative value and unfair prejudice is something that is entrusted to the wide discretion of the trial judge. The appellate standard of review, therefore, is the highly deferential abuse-of-discretion standard. The fact that we might have struck the balance otherwise is beside the point…. Reversal should be reserved for those rare and bizarre exercises of discretion that are, in the judgment of the appellate court, not only wrong but flagrantly and outrageously so….

The ruling of which Mallik complains was not a "rare and bizarre" exercise of discretion.

3. *Voir Dire*

"We review a trial court's refusal to propound a requested voir dire question under the abuse of discretion standard." *Wagner v. State*, 213 Md. App. 419, 449–50 (2013) (citing *State v. Shim*, 418 Md. 37, 43–44 (2011)). And as such, "[w]e afford the trial court

broad discretion in running *voir dire*, because [t]he trial judge has had the opportunity to hear and observe the prospective jurors, to assess their demeanor, and to make factual findings." *Wagner*, 213 Md. App. at 450 (internal quotations and citations omitted).

Mallik requested the court, on *voir dire*, to ask prospective jurors: "Does any member of the prospective jury panel have strong feelings against pornography in general?" The court declined to ask the question and Mallik, relying, *inter alia*, on *Pearson v. State*, 437 Md. 350 (2014), asserts that the court erred.

In *Pearson*, the Court of Appeals reaffirmed, with slight language modification, its holding in *State v. Shim*, *supra*. Specifically, the Court held that "on request, a trial court must ask during *voir dire*: 'Do any of you have strong feelings about [the crime with which the defendant is charged]?'" *Pearson*, 437 Md. at 363. The *Pearson* court, in requiring that a court put "strong feelings" questions to the venire, qualified the requirement by noting that the purpose of such question is to probe for biases directly related to the crime charged. *See eg. Pearson*, 437 Md. at 357 (explaining that there are "two categories of specific cause for disqualification: (1) a statute …; or (2) a 'collateral matter [is] reasonably liable to have undue influence over' a prospective juror. The latter category is comprised of 'biases *directly related to the crime*, the witnesses, or the defendant.'" (emphasis added) (internal citations omitted)).

While superficially similar, Mallik's proposed question for *voir dire* did not inquire of the prospective jurors whether they had "strong feelings" against *child pornography* – the crime with which he was charged. Rather, the proposed question seeks only a

disclosure of "strong feelings" towards pornography *in general*, possession of which is not always a crime.

In his brief, Mallik acknowledge that the proposed question "encompassed both lawful and unlawful pornography," and "was … targeted to determine whether jurors had *such strong feelings about the subject matter that it would prevent the jurors from making a determination of guilt or innocence* …." (Emphasis added). However, it is such language, as we have emphasized, that created the *Pearson* Court's departure from its broader holding in *Shim*. *Pearson*, 437 Md. at 363. The Court reasoned that the particular language in *Shim* was phrased "in a way that shifted responsibility to decide a prospective juror's bias from the trial court to the prospective juror[.]" *Id.* A point which was recently reaffirmed by the Court of Appeals in *Collins v. State*, stating "that, on request, a trial court is required to ask a properly-phrased – i.e., non-compound – 'strong feelings' question. In other words, under Pearson, during *voir dire*, on request, a trial court must ask: 'Do any of you have strong feelings about [the crime with which the defendant is charged]?'" *Collins*, __ Md. __, No. 54, Sept. Term, 2018, slip op. at 2 (Apr. 2, 2019). As a result, the *Collins* Court held that "the circuit court abused its discretion by asking compound 'strong feelings' questions and refusing to ask properly-phrased 'strong feelings' questions during *voir dire*." *Id.*, slip op. at 11.

In our review, "where the question appellant requested was not a mandatory question, and where other questions created a reasonable assurance that prejudice would be discovered if present, we cannot conclude that the court abused its discretion in

conducting voir dire in this case." *Wagner*, 213 Md. App. at 452 (internal quotations and citation omitted).

In that respect, the court put several questions to the venire concerning the charged offenses. For example:

> COURT: Does anyone know anything about this case? The charge has to do with possession of child pornography. Anyone know anything about this case from any source?
>
> * * *
>
> COURT: Is there any member of the panel or your immediate family who has been the victim of a crime?
>
> * * *
>
> COURT: [Has] [a]ny member of the panel or your family ever been involved in a similar legal proceeding either as a party, witness, or a juror?
>
> * * *
>
> COURT: Well, I should say this to you, just by way of clarification. The defendant is not charged with abusing anyone. But what he is charged with is being in possession of child pornography. So this is not really an abuse case, but somewhat related.
>
> * * *
>
> COURT: Ladies and gentlemen, knowing only what I've told you about the subject matter of this case, is there any member of the panel who has any particular bias which would keep you from being fair and impartial based upon these charges?
>
> * * *
>
> COURT: This case is about possession of child pornography. And part of the evidence would include images, pictures. Anyone think that you could not decide this case fairly and impartially after viewing the illicit images? …

We find no abuse of the court's considerable discretion in its management of the *voir dire*.

4. Motion for Mistrial

At the start of the third day of trial, defense counsel moved for a mistrial based on information received by her from another attorney who had been a member of the original jury pool from which Mallik's jury panel was chosen. Counsel provided the court with the email message, which the court then read to the jury panel:

> "Yesterday I was on the jury panel for the case, but my number was too high, so I was not addressed prior to the jury being selected. As an attorney, I feel obligated to share with you something that happened that I fear may have influenced the jury.
>
> Yesterday morning, one of the judges came in to address the prospective jurors…. He said a three-day felony trial was set in this courtroom, but the defendant had not shown up, so the case was not going forward. He referred to how the police were going to have to go out and get the defendant. There was chatter all day among the prospective jurors about how this defendant had fled. Then when we were called up for your trial, and the judge said it would be a three-day trial, there was a lot of discussion that this was the case [Mallik] that the judge had been talking about."

(quoting the prospective juror-attorney's email to defense counsel).

Mallik contends that the other judge's pre-trial comments to prospective jurors "was presumptively prejudicial to [him] because, as reported by the attorney, 'there was a lot of discussion that the case that the judge had been talking about,' indicating that some of the prospective jurors believed or speculated that [he] was the absconding defendant." (Internal citation omitted). Further, Mallik avers that "the trial judge's *voir dire* of the jury was insufficient to rebut the presumption of prejudice[,]" and that "the circumstances of this situation demanded individualized *voir dire* or a clear indication from the transcript to rebut the attorney's report about speculation that [he] was the fleeing defendant."

In response, the court questioned the jury panel as a group, asking if any of the jurors had heard the judge's statement about the defendant who had fled. Several jurors responded, but each indicated that they did not suspect that it was Mallik to whom the reference was made. The court's final inquiry was also met with the same responses in the negative, when it explained, "my instruction is simply this. Based upon my question, your response, [is] anyone influenced in any way by what they heard as far as this case is concerned?" Concluding, the court announced:

> All right. I'm satisfied that this jury can be fair and impartial, that there really has not been any damage because everyone indicates that they never thought it was the defendant in this case who had been described by the other judge….

We review a trial court's denial of a motion for mistrial under abuse of discretion. *Johnson v. State*, 423 Md. 137, 151 (2011) (quoting *Dillard v. State*, 415 Md. 445, 454 (2010)). The Court of Appeals has held that "'[t]he court has a duty to fully investigate allegations of juror misconduct before ruling on a motion for a mistrial, and that failure to conduct a *voir dire* examination of the jurors before resolving the issue of prejudice is an abuse of the trial judge's discretion.'" *Id.* at 151 (quoting *Dillard*, 415 Md. at 461). As relevant to the present appeal, "[t]he level of inquiry is dictated by the particulars of the misconduct." *Id.* at 152.

During the discussion concerning Mallik's motion for mistrial, counsel explained the circumstances and contents of the email from the attorney/prospective juror, asserting:

> So as a result of that taint, Your Honor, the defendant has to preserve the record, obviously. We do believe that there is a taint in the jury pool and the actual jurors that were chosen at this time and as such that would be the basis for the defendant's request for a mistrial.

Beyond that assertion, Mallik made no other challenge to the court's proposed course of conduct or of its *voir dire* of the jury.

We have explained that the "'declaration of a mistrial is an extraordinary act which should only be granted if necessary to serve the ends of justice.'" *Wilder v. State*, 191 Md. App. 319, 345 (2010) (quoting *Cooley v. State*, 385 Md. 165, 173 (2005)). As such, taking into consideration the context of the other judge's unrelated communication, the court's sufficient *voir dire* of the jury concerning the effect of the judge's communication, the responses from the jury denying any influence by the communication, and appellant's failure to thereafter challenge the court's choice of remedies or its denial of the motion for mistrial, we can find no error in the court's denial of the motion.

5. Amendments to Charging Documents

Lastly, Mallik contends that the court erred when it permitted the State, on the first day of trial, to amend the date for three of the 11 charges in the charging document. He asserts that "up until the first day of trial when the motion to amend was granted, the Criminal Information charged [him] with possessing 11 contraband images at [his residence] on March 3, 2016." Further, that he was severely prejudiced by the amendment because the "date is a material part" of the description of his offense, as he had "not even purchase[d] the computer at issue until March 21, 2016, approximately two and a half weeks after the March 3, 2016 date in the charging document." (Internal citation omitted).

Maryland Rule 4-204 provides that:

> On motion of a party or on its own initiative, the court at any time before verdict may permit a charging document to be amended except that if

> the amendment changes the character of the offense charged, the consent of the parties is required. If amendment of a charging document reasonably so requires, the court shall grant the defendant an extension of time or continuance.

The Court of Appeals has held that "'[a]n amendment that constitutes merely a 'matter of form' does not change the character of the offense.'" *Thompson v. State*, 412 Md. 497, 517 (2010) (quoting *Johnson v. State*, 358 Md. 384, 387 (2000)).

The criminal information, encompassed the 11 counts of possession of child pornography, for the visual representation of a child under 16 engaged in certain sexual acts, pursuant to Maryland Code (2002, 2012 Repl. Vol.) Criminal Law Article § 11-208(a). The facts set forth to support each count contained virtually the same language, differing only in the name and description of the pornographic image. The alleged location of the possession relating to each count was Mallik's residence and the date for each count was given as "on or about March 3, 2016." There is no mention in the documents of what device(s) had contained the pornographic images. As such, an amendment to merely add a correct date for possession of the images in those counts did not change the character of the offense.

Moreover, the correct dates and location of the images on Mallik's Acer laptop appear to have been provided in the forensic examination reports by Det. William Elrod and CFA Steven Gibson, on or before January 10, 2017, when the State filed its disclosure of expert witnesses. As Snyder testified at trial, he received the results of Gibson's forensic examination of Mallik's laptop on October 25, 2016, identifying the three suspected child pornography images found thereon, which also "gives the file name[,] … the path of where

the file was located[,] … [and] a file creation date and last access date on it[.]" At the motions hearing, the State pointed out that "[t]he defense had reviewed these images, had access to the forensic file since December 13, 2016." Thus, Mallik was on timely notice of the correct dates relating to those counts and was not prejudiced by the amendments to the Criminal Information. *See also Thompson*, *supra*, 412 Md. at 519 (holding that the court's *sua sponte* amendment of the sexual offense date and address at the close of the State's case did not unfairly prejudice the defendant to warrant a new trial because he had been provided with discovery that contained the correct date and address).

JUDGMENT OF THE CIRCUIT COURT FOR FREDERICK COUNTY AFFIRMED; COSTS ASSESSED TO APPELLANT.